

UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

NOV 30 2012 PM03:45

FILED

IN CLERK'S OFFICE
BANKRUPTCY COURT
NORTHERN DISTRICT
OF GEORGIA

IN RE:

SAMMY L. RICHARDS,

Debtor.

CASE NO. 09-69716-WLH

CHAPTER 13

JUDGE WENDY L. HAGENAU

M. REGINA THOMAS
CLERK

Jackie Dukes
DEPUTY CLERK

SAMMY L. RICHARDS,

Plaintiff,

v.

ADV. PROC. NO. 12-5345

WELLS FARGO NATIONAL BANK,
a/k/a Wells Fargo Bank, N.A., and
McCULLA RAYMOR, PC,

Defendants.

SECOND AMENDED COMPLAINT

COMES NOW, Plaintiff Sammy Richards, and files this his Second Amended Complaint, respectfully showing this Honorable Court the following:

1.

Subject to this Court's Order entered on November 21, 2012 (Case 12-05345-wlh, Doc [26]), Plaintiff incorporates all Paragraphs ^{and PRAYERS} of his Adversary Complaint filed on July 30, 2012 (Case 12-05345-wlh, Doc [5]). In addition, Plaintiff states as follows:

2.

A Bloomberg screenshot indicates that Wells Fargo Bank, N.A. does not own or hold Plaintiff's Note in its individual capacity, but that Plaintiff's Note collateralizes Mortgage-Backed Securities issued by Structured Asset Securities Corporation ("SASC") and held in a

trust identified as Series 2007-RF1 (the "Trust"). Additionally, research performed on the SEC's website reveals that the Trust has been a part of at least two purchase or repurchase agreements. (See Exhibit "C"). In spite of this, Wells claimed to be a secured creditor in Plaintiff's Chapter 13 bankruptcy.

3.

Plaintiff's Chapter 13 Plan indicates that post-petition payments to Wells were to be paid as they came due.

4.

Payments to Wells were due on the first of the month with a grace period extending through the 15th. Payments not received by the 15th of the month were assessed a late charge.

5.

The Customer Account Activity Statement submitted to Plaintiff by Wells reveals that Plaintiff was assessed late charges in May, June, and July of 2009 even though he was not late for any of these months. (See Exhibit "A").

6.

Wells inexplicably held Plaintiff's timely payment due in May of 2010 for several weeks, and did not post it to Plaintiff's payment ledger until June 14, 2010. As a result, Plaintiff appeared to be a month and a half behind. (See Ex. "A").

7.

Plaintiff mailed a check on August 10, 2010 in the amount of \$948.94 to Wells. This check was not posted to Plaintiff's payment ledger until August 18, 2010. (See Ex. "A"; Exhibit "B").

8.

Plaintiff mailed a check on September 15, 2010 in the amount of \$962.31 to Wells. (See Ex. "B"). Plaintiff called Wells on or about September 27, 2010 to determine whether Wells received the payment. Wells represented to Plaintiff that it had not received the payment.

9.

Now convinced that Wells was purposely withholding payments so that it could make Plaintiff appear to be behind in order to seek relief from stay, Plaintiff immediately cancelled the check sent on September 15th and sent a second check on September 27, 2010. (See Ex. "B").

10.

On September 28, 2010, McCalla filed a Motion for Relief from Stay. In the Motion, McCalla alleged that Plaintiff had not paid the payment that was due in August 2010 in the amount of \$948.94, nor the payment that was due in September 2010 in the amount of \$962.31.

11.

The CAAS clearly indicates that the payment for August 2010 in the amount of \$948.94 cleared on August 18, 2010—more than a month before McCalla's Motion was filed.

12.

The September 2010 payment in the amount of \$962.31 posted to Plaintiff's account on October 1, 2010.

13.

McCalla admitted at the hearing on November 13, 2012 that it had a copy of the SAAC. Therefore, it had knowledge of the precise dates on which Plaintiff's payments had posted.

14.

Wells had knowledge of the SAAC, as it is a business record of Wells.

15.

Despite knowing that their asserted grounds for seeking relief from the stay were defective more than two weeks prior to the October 20th hearing on the Motion, Wells and McCalla continued to pursue relief from stay.

16.

In a hearing held in April of 2012, counsel for Wells asserted that Plaintiff was in default because the last two payments appearing on the SAAC were applied to May and June of 2010. See Exhibit "D" at 7; Ex. "A"). As Plaintiff was two months behind when his bankruptcy began and was purportedly two month behind in post-petition payments (because his payments were being wrongfully held), this was only possible if post-petition payments were being applied to pre-petition arrearage.

COUNT II

Fed. R. Bankr. Proc. 9011(c)(1)(B) ("Inherent Authority") Sanctions (as to Wells and McCalla) and 11 U.S.C. 362(k) Sanctions (as to Wells)

16.

Pursuant to Fed. R. Bankr. Proc. 9011(b)(3), Wells and McCalla were required to inform this Court that the circumstances precipitating the filing of the Motion for Relief from Stay had changed. Defendants willfully failed to do this.

17.

Pursuant to GA Bar Rule 3.3(a)(1), (2), and (4), and 3.3(d), McCalla was required to inform this Court that the circumstances precipitating the filing of the Motion for Relief from Stay had changed. McCalla willfully failed to do this.

18.

This Court has inherent power to sanction Defendants for engaging in this act; and Plaintiff requests that this Court sanction Defendants for willfully failing to disclose all material facts to this Court and wrongfully continuing to pursue relief from the stay.

19.

Additionally, this Court should sanction Wells pursuant to its inherent authority for purposely holding Plaintiff's payments so that it would appear on his ledger that he was behind in his post-petition payments, thereby giving Wells a justification to seek relief from the automatic stay.

20.

Further, the statement made by counsel for Wells in the April 18, 2012 hearing, as well as the late fees charged in May, June, and July of 2009, indicates that Wells was applying post-petition payments to pre-petition debt in violation of the automatic stay.

21.

Pursuant to 11 U.S.C. § 362(k), Plaintiff prays for actual damages, costs and attorneys' fees, and punitive damages.

22.


Plaintiff's actual damages include (but are not limited to) being foreclosed on and almost being evicted as a result of Wells' willful violation of the automatic stay.

WHEREFORE, Plaintiff prays for relief as follows:

- (a) That this Court sanction Wells and McCalla under Fed. R. Bankr. Proc. 9011(c)(1)(B) and pursuant to the Court's "inherent authority";
- (b) That this Court sanction Wells pursuant to 11 U.S.C. § 362(k) and award Plaintiff actual and punitive damages in an amount to be determined by this Court;

- (c) That this Court sanction Wells pursuant to 11 U.S.C. § 362(k) and award Plaintiff costs and attorney fees in an amount to be determined by this Court;
- (d) That this Court grant Plaintiff further leave to amend his Complaint provided this Court chooses to rule on Counts I and V of Plaintiff's Amended Complaint (Doc [5]); and
- (e) For such other and further relief as this Court deems just and proper.

Respectfully submitted this 30th day of November, 2012.


THOMPSON LAW GROUP, LLC
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Georgia Bar No. 709750
H. Kirk Henson, Esq.
Georgia Bar No. 197411
William J. Smith
Georgia Bar No. 710280
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THOMPSON LAW GROUP, LLC
Ivy Place
3423 Piedmont Road, Suite 530
Atlanta, Georgia 30305

UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

IN RE:)	CASE NO. 09-69716-WLH
)	
SAMMY L. RICHARDS,)	CHAPTER 13
)	
Debtor.)	JUDGE WENDY L. HAGENAU
)	
SAMMY L. RICHARDS,)	
)	
Plaintiff,)	
)	
v.)	ADV. PROC. NO. 12-5345
)	
WELLS FARGO NATIONAL BANK,)	
a/k/a Wells Fargo Bank, N.A., and)	
McCULLA RAYMOR, PC,)	
)	
Defendants.)	
)	


CERTIFICATE OF SERVICE

I hereby certify that I have this 26th day of November, 2012, served Defendants in this matter with the foregoing **PLAINTIFF'S SECOND AMENDED COMPLAINT** by U.S. Mail to the following addresses:

Ashley S. Thompson
Baker Donelson Bearman
Caldwell & Berkowitz, P.C.
Monarch Plaza, Suite 1600
3414 Peachtree Road, NE
Atlanta, GA 30326

Kimberly D. Rayborn
McCalla Raymer LLC
Suite 3200
Six Concourse Parkway
Atlanta, GA 30328

Respectfully submitted this 30th day of November, 2012.



THOMPSON LAW GROUP, LLC

Robert Thompson, Jr., Esq.

Georgia Bar No. 709750

H. Kirk Henson, Esq.

Georgia Bar No. 197411

William J. Smith

Georgia Bar No. 710280

Attorneys for Sammy L. Richards

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Exhibit “A”

16 Payments

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Customer Account Activity Statement
708-0134312081
Sammy Richards



Date Received	Contractual Est Date	Port Due Date	Pre Due Date	Outstanding Balance	Outstanding Fee Balance	Escrow Balance	Principal Balance	Fee Assessed or Recovered	Escrow Applied or Disbursed	Amount Applied to Interest	Amount Applied to Principal	Trustee Funds Received	Trustee Funds Received	Comments
02/04/09				\$0.00	\$0.00	\$578.89	\$113,350.38		\$44.03					Mortgage Insurance Paid
02/17/09				\$38.02	\$38.02	\$578.89	\$113,350.38	-\$38.02						Late Charge Assessed
02/27/09	02/01/09			\$0.00	\$0.00	\$823.20	\$113,213.28	\$38.02	\$243.26	\$880.26	\$117.09	\$88.62		Payment and Late Charges Paid
02/27/09				\$0.00	\$0.00	\$823.20	\$113,212.92				\$0.37	\$0.37		Principal Curtailment
03/04/09				\$0.00	\$0.00	\$778.17	\$113,212.92		\$44.03					Mortgage Insurance Paid
03/16/09				\$38.02	\$38.02	\$778.17	\$113,212.92	-\$38.02						Mortgage Insurance Paid
04/03/09				\$0.00	\$0.00	\$738.14	\$113,212.92		\$44.03					Mortgage Insurance Paid
04/14/09				\$36.02	\$36.02	\$738.14	\$113,212.92							CHAPTER 13 BANK CASE # 08-08716 FILED -
04/16/09				\$78.04	\$78.04	\$735.14	\$113,212.92	-\$38.02						Late Charge Assessed
05/04/09				\$0.00	\$0.00	\$691.11	\$113,212.92		\$44.03					Mortgage Insurance Paid
05/05/09				\$0.00	\$0.00	\$615.07	\$113,212.92	\$78.04	\$78.04					Late Charge Paid
05/12/09	05/01/09			\$0.00	\$0.00	\$658.32	\$113,095.22		\$243.26	\$599.66	\$117.70	\$88.62		Payment Applied, Remaining Funds Unapplied
05/13/09				\$0.00	\$0.00	\$658.34	\$113,095.22		\$0.02					Unapplied Funds to Escrow
05/18/09				\$38.02	\$38.02	\$658.34	\$113,095.22	-\$38.02						Late Charge Assessed
06/01/09	06/01/09			\$38.02	\$38.02	\$1,101.59	\$112,876.81		\$243.26	\$538.04	\$118.31	\$88.62		Payment Applied, Remaining Funds Unapplied
06/02/09				\$38.00	\$38.00	\$1,101.59	\$112,876.81	\$0.02						Late Charge Paid
06/04/09				\$38.00	\$38.00	\$1,057.58	\$112,876.81		\$44.03					Mortgage Insurance Paid
06/16/09				\$78.02	\$78.02	\$1,057.58	\$112,876.81	-\$38.02						Late Charge Assessed
07/01/09	05/01/09			\$78.02	\$78.02	\$1,300.81	\$112,857.86		\$243.26	\$598.42	\$118.33	\$88.60		Monthly Mortgage Payment
07/03/09				\$78.02	\$78.02	\$1,256.78	\$112,857.86		\$44.03					Mortgage Insurance Paid

1.
2.
3.

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Customer Account Activity Statement
708-0134312081
Sammy Richards

WELLS FARGO HOME MORTGAGE

Date Received	Contractual Due Date	Post Due Date	Pre Due Date	Debtor Funds Received	Trustee Funds Received	Treasury Interest	Amount Applied to Principal	Amount Applied to Interest	Escrow Applied/Disbursed	Fees Assessed or Recovered	Principal Balance	Escrow Balance	Proof of Claim Balance	Outstanding Fee Balance	Corporate Advance Fees Assessed or Recovered	Outstanding Corporate Advance Balance	Comments
07/16/09										-\$37.86	\$112,657.99	\$1,256.76	\$2,626.66	\$113.98		\$0.00	Let Charge Assessed
07/17/09				\$950.62							\$112,657.98	\$1,256.76	\$2,626.66	\$113.98		\$0.00	Unapplied Funds
07/21/09	08/01/09						\$119.58	\$987.60	\$243.28		\$112,736.43	\$1,500.03	\$2,626.66	\$113.98		\$0.00	Unapplied Funds to Payment
08/04/09									-\$44.03		\$112,736.43	\$1,456.00	\$2,626.66	\$113.98		\$0.00	Mortgage Insurance Paid
08/05/09											\$112,736.43	\$1,456.00	\$2,626.66	\$113.98	-\$300.00	\$300.00	Bankruptcy Fees
08/28/09				\$950.62							\$112,736.43	\$1,456.00	\$2,626.66	\$113.98		\$300.00	Unapplied Funds
09/01/09	07/01/09	09/01/09					\$120.17	\$987.18	\$241.89		\$112,816.28	\$1,697.59	\$2,626.66	\$113.98		\$500.00	Unapplied Funds to Payment
09/04/09									-\$44.03		\$112,816.28	\$1,653.56	\$2,626.66	\$113.98		\$300.00	Mortgage Insurance Paid
09/30/09				\$950.62							\$112,816.28	\$1,653.56	\$2,626.66	\$113.98		\$300.00	Unapplied Funds
10/07/09	08/01/09	10/01/09					\$120.60	\$986.66	\$241.59		\$112,487.48	\$1,695.16	\$2,626.66	\$113.98		\$300.00	Unapplied Funds to Payment
10/02/09									-\$44.03		\$112,487.48	\$1,651.12	\$2,626.66	\$113.98		\$300.00	Mortgage Insurance Paid
10/21/09									-\$2,026.61		\$112,487.48	-\$175.39	\$2,626.66	\$113.98		\$300.00	County Taxes Paid
11/04/09									-\$44.03		\$112,487.48	-\$219.42	\$2,626.66	\$113.98		\$300.00	Mortgage Insurance Paid
11/09/09				\$950.62							\$112,487.48	-\$219.42	\$2,626.66	\$113.98		\$300.00	Unapplied Funds
11/09/09	09/01/09	11/01/09					\$121.43	\$985.82	\$241.59		\$112,376.03	\$22.17	\$2,626.66	\$113.98		\$300.00	Unapplied Funds to Payment
12/04/09									-\$44.03		\$112,376.03	-\$21.86	\$2,626.66	\$113.98		\$300.00	Mortgage Insurance Paid
12/18/09				\$950.00							\$112,376.03	-\$21.86	\$2,626.66	\$113.98		\$300.00	Unapplied Funds
12/18/09									-\$514.06		\$112,376.03	-\$535.92	\$2,626.66	\$113.98		\$300.00	Homeowners Insurance Paid
12/21/09	10/01/09	12/01/09					\$122.08	\$985.29	\$241.59		\$112,263.97	-\$294.33	\$2,626.66	\$113.98		\$300.00	Unapplied Funds to Payment
01/05/10									-\$44.03		\$112,263.97	-\$338.36	\$2,626.66	\$113.98		\$300.00	Mortgage Insurance Paid

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Customer Account Activity Statement
708-0134312081
Sammy Richards



Date Received	Contractual Due Date	Post Due Date	Pre Due Date	Debtor Funds Received	Trustee Funds Received	Trustee Interest	Amount Applied to Principal	Amount Applied to Interest	Excess Applied/Disbursed	Fees Assessed or Recovered	Principal Balance	Excess Balance	Proof of Claim Statement	Outstanding Pre Balance	Corporate Advances Assessed or Recovered	Outstanding Corporate Advances Balance	Comments
01/15/10				\$890.82							\$112,253.97	-\$338.98	\$2,628.68	\$113.98		\$300.00	Unapplied Funds
01/18/10	11/01/09	01/01/10					\$122.69	\$594.66	\$241.59		\$112,131.28	-\$88.77	\$2,628.68	\$113.98		\$300.00	Unapplied Funds to Payment
02/04/10									-\$43.24		\$112,131.28	-\$140.01	\$2,628.68	\$113.98		\$300.00	Mortgage Insurance Paid
02/22/10				\$890.00							\$112,131.28	-\$140.01	\$2,628.68	\$113.98		\$300.00	Unapplied Funds
02/23/10	12/01/09	02/01/10					\$123.33	\$594.02	\$241.59		\$112,007.98	\$101.59	\$2,628.68	\$113.98		\$300.00	Unapplied Funds to Payment
03/04/10									-\$43.24		\$112,007.98	\$98.34	\$2,628.68	\$113.98		\$300.00	Mortgage Insurance Paid
03/08/10				\$890.82							\$112,007.98	\$98.34	\$2,628.68	\$113.98		\$300.00	Unapplied Funds
03/12/10	01/01/10	03/01/10					\$123.68	\$593.37	\$241.59		\$111,883.97	\$299.92	\$2,628.68	\$113.98		\$300.00	Monthly Mortgage Payment
04/02/10									-\$43.24		\$111,883.97	\$256.09	\$2,628.68	\$113.98		\$300.00	Mortgage Insurance Paid
04/08/10				\$890.82							\$111,883.97	\$256.09	\$2,628.68	\$113.98		\$300.00	Unapplied Funds
04/12/10	02/01/10	04/01/10					\$124.62	\$592.73	\$241.59		\$111,759.35	\$498.28	\$2,628.68	\$113.98		\$300.00	Unapplied Funds to Payment
05/04/10									-\$43.24		\$111,759.35	\$455.04	\$2,628.68	\$113.98		\$300.00	Mortgage Insurance Paid
05/04/10									-\$43.24		\$111,759.35	\$411.20	\$2,628.68	\$113.98		\$300.00	Mortgage Insurance Paid
06/14/10				\$970.00							\$111,759.35	\$411.00	\$2,628.68	\$113.98		\$300.00	Unapplied Funds
06/15/10	03/01/10	06/01/10					\$125.27	\$592.09	\$241.59		\$111,634.06	\$953.39	\$2,628.68	\$113.98		\$300.00	Unapplied Funds to Payment
07/02/10									-\$43.24		\$111,634.06	\$910.15	\$2,628.68	\$113.98		\$300.00	Mortgage Insurance Paid
07/18/10				\$945.09							\$111,634.06	\$910.15	\$2,628.68	\$113.98		\$300.00	Unapplied Funds
07/18/10	04/01/10	08/01/10					\$126.92	\$591.43	\$241.59		\$111,508.16	\$951.74	\$2,628.68	\$113.98		\$300.00	Unapplied Funds to Payment
08/04/10									-\$43.24		\$111,508.16	\$908.50	\$2,628.68	\$113.98		\$300.00	Mortgage Insurance Paid
08/18/10				\$945.94							\$111,508.16	\$908.50	\$2,628.68	\$113.98		\$300.00	Unapplied Funds

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12 *

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15 *

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Customer Account Activity Statement
708-0134312081
Sammy Richards



Date Received	Contractual Due Date	Past Due Date	Prn Due Date	Debtor Funds Received	Trustee Funds Received	Trustee Interest	Amount Applied to Principal	Amount Applied to Interest	Escrow Applied/Disbursed	Fees Assessed or Recovered	Principal Balance	Escrow Balance	Prin of Chd's Subst	Outstanding Fee Balance	Comps Advance Fee Assessed or Recovered *	Outstanding Comps Advance Balance *	Comments
08/18/10	05/01/10	07/01/10					\$126.58	\$590.77	\$241.59		\$111,381.58	\$1,050.09	\$2,828.68	\$113.98		\$300.00	Unapplied Funds to Payment
09/02/10									-443.24		\$111,381.58	\$1,008.65	\$2,828.68	\$113.98		\$300.00	Mortgage Insurance Paid
10/01/10											\$111,381.58	\$1,006.65	\$2,828.68	\$113.98		\$300.00	Unapplied Funds
10/04/10	08/01/10	08/01/10		\$982.31			\$127.24	\$590.11	\$241.69		\$111,254.34	\$1,248.44	\$2,828.68	\$113.98		\$300.00	Unapplied Funds to Payment
10/04/10									-443.24		\$111,254.34	\$1,206.20	\$2,828.68	\$113.98		\$300.00	Mortgage Insurance Paid
10/11/10	08/01/10	08/01/10					-\$127.24	-\$560.11	-\$241.69		\$111,381.58	\$983.81	\$2,828.68	\$113.98		\$300.00	Misapplication Reversed to Suspense
10/11/10											\$111,381.58	\$983.81	\$2,828.68	\$113.98		\$300.00	Misapplication Reversal
10/22/10									-\$1,228.19		\$111,381.58	-\$885.66	\$2,828.68	\$113.98		\$300.00	County Taxes Paid
11/04/10									-443.24		\$111,381.58	-\$805.82	\$2,828.68	\$113.98		\$300.00	Mortgage Insurance Paid
11/01/10											\$111,381.58	-\$305.82	\$2,828.68	\$113.98	-\$160.00	\$450.00	Bankruptcy Cost
11/01/10											\$111,381.58	-\$405.82	\$2,828.68	\$113.98	-\$656.00	\$1,100.00	Bankruptcy Fees
11/08/10											\$111,381.58	-\$605.82	\$0.00	\$113.98		\$1,100.00	MOTION FOR RELIEF
11/10/10										\$113.33	\$111,381.58	-\$605.82	\$0.00	\$0.65		\$1,100.00	Unapplied Funds
11/18/10										-\$38.46	\$111,381.58	-\$644.82	\$0.00	\$38.14		\$1,100.00	Late Charge Assessed
12/03/10									-443.24		\$111,381.58	-\$948.06	\$0.00	\$38.14		\$1,100.00	Mortgage Insurance Paid
12/20/10									-\$387.37		\$111,381.58	-\$1,535.43	\$0.00	\$38.14		\$1,100.00	Homeowners Insurance Paid
01/04/11									-443.24		\$111,381.58	-\$1,579.67	\$0.00	\$38.14		\$1,100.00	Mortgage Insurance Paid
01/18/11											\$111,381.58	-\$1,579.67	\$0.00	\$38.14	-\$467.50	\$1,587.50	Attorney Fees
01/18/11											\$111,381.58	-\$1,579.67	\$0.00	\$38.14	-\$250.00	\$1,537.50	Process Service Fees
01/18/11											\$111,381.58	-\$1,579.67	\$0.00	\$38.14	-\$18.44	\$1,555.94	Certified Mail Costs

16.7

Exhibit “B”

ATTN Matthew J. Chesney FAX # 877-601-7851

OF

Robert J. Semrad * Associates

CASE # 09-69716-W.L.H

Here copys of check For mortgase payment

For Aug 2010 to Wells Fargo Home mortgase
cleard on 8-19-2010 By Suntrust Bank

check # 1049 Sep payment send this
monday 9-27-2010 Right After we met.
thanks Sammy L Richard

9-30-2010

404-625-7566

STORE YOUR DUPLICATE CHECKS IN YOUR CHECK BOX.

☒ Track your expenses...
☐ Clothing ☐ Food ☐ Transportation
☐ Credit Card ☐ Utilities ☐ Mortgage
☐ Entertainment ☐ Insurance ☐ Other: _____

1049

8-10-2010

Wells Fargo mortgase
Nine Hundred Forty Eight

(cleard 8-19-2010)

Aug 2010 payment

BALANCE
FORWARD

THIS ITEM

94894

BALANCE

DEPOSIT

OTHER

BALANCE
FORWARD

For added security, your name and account number do not appear on this copy.

NOT NEGOTIABLE

STORE YOUR DUPLICATE CHECKS IN YOUR CHECK BOX.

☒ Track your expenses...
☐ Clothing ☐ Food ☐ Transportation
☐ Credit Card ☐ Utilities ☐ Mortgage
☐ Entertainment ☐ Insurance ☐ Other: _____

1051

9-15-2010

Wells Fargo Home mortgase
Nine Hundred sixty two 3/4

Sept 2010 payment

BALANCE
FORWARD

THIS ITEM

96231

BALANCE

DEPOSIT

OTHER

BALANCE
FORWARD

For added security, your name and account number do not appear on this copy.

NOT NEGOTIABLE

TRANSMISSION VERIFICATION REPORT

TIME : 09/30/2010 10:24
NAME :
FAX :
TEL :
SER.# : F9N242790

DATE, TIME	09/30 10:23
FAX NO./NAME	18775017851
DURATION	00:00:29
PAGE(S)	01
RESULT	OK
MODE	STANDARD ECM

SUNTRUST BANK
P O BOX 622227
ORLANDO FL 32862-2227

Page 1 of 2
63/B05/0175/0 /11
9976
09/13/2010



6004!
SAMMY RICHARDS
PO BOX 162366
ATLANTA GA 30321-2366

Account Statement

Questions? Please call
1-800-786-8787

ON 8/14, FEDERAL REGULATIONS CHANGED HOW WE PAY OVERDRAFTS ON ATM & DEBIT CARD TRANSACTIONS. YOU MAY CHOOSE TO REQUEST THIS SERVICE OR WE WILL DECLINE THE ITEM IF YOU EXCEED YOUR AVAILABLE BALANCE. TO ENSURE CONTINUATION OF YOUR OVERDRAFT SERVICE, VISIT SUNTRUST.COM/OVERDRAFT, CALL 800.485.7279, VISIT A BRANCH.

Account Summary	Account Type	Account Number	Statement Period
	FREE CHECKING	9976	08/12/2010 - 09/13/2010

Description	Amount	Description	Amount
Beginning Balance	\$387.94	Average Balance	\$907.98
Deposits/Credits	\$3,338.02	Average Collected Balance	\$907.98
Checks	\$1,156.00	Number of Days in Statement Period	33
Withdrawals/Debits	\$2,163.62		
Ending Balance	\$406.34		

Deposits/ Credits	Date	Amount	Description	
	08/13	785.81	ELECTRONIC/ACH CREDIT	
			VOLUME TRANSPORT ACH	2087
	08/20	718.16	ELECTRONIC/ACH CREDIT	
			VOLUME TRANSPORT ACH	2087
	08/27	512.07	ELECTRONIC/ACH CREDIT	
			VOLUME TRANSPORT ACH	2087
	09/03	637.56	ELECTRONIC/ACH CREDIT	
			VOLUME TRANSPORT ACH	2087
	09/03	125.00	DEPOSIT	
	09/10	559.42	ELECTRONIC/ACH CREDIT	
			VOLUME TRANSPORT ACH	2087

Deposits/Credits: 6 Total Items Deposited: 0

Checks	Check Number	Amount	Date Paid	Check Number	Amount	Date Paid	Check Number	Amount	Date Paid
	1050	1,156.00	09/08						

Checks: 1

Withdrawals/ Debits	Date Paid	Amount	Description	
	08/12	30.00	CHECK CARD PURCHASE	
			SOUTHERN HEART SPECIALIST	770-9912100 GA
	08/16	100.55	POINT OF SALE DEBIT	
			WAL-MART #1340	LITHONIA GA 24134001
	08/17	9.05	CHECK CARD PURCHASE	
			Flying J C store inside	Rock Hill SC
	08/17	11.72	CHECK CARD PURCHASE	
			NEW SHAN BUFFET	MONTEAGLE TN
	08/19	948.94	ELECTRONIC/ACH DEBIT	
			WFHM MORTGAGE	CHECKPAYMT 1049
	08/23	60.00	ATM CASH WITHDRAWAL	
			SOUTHLAKE	MORROW GA DA53GA021
	08/23	30.00	CHECK CARD PURCHASE	
			FAMS ITF THE EMORY CLINIC	800-3996505 GA

Exhibit “C”

GRAB

Residential Loan Search

Search By:

☒ Orig Loan Amount:

☐ Loan Number:

 Orig Date:

 ZIP:

Found 1 loans

Loan	Issuer	Series	Group	Status	Orig Balance	Rate Type	Orig Date	Zip
0124023540	SASC	2007-RF1	0, 1	Foreclosure	115,804	6.25 FIXED	01/2004	30294

Australia 61 2 9277 8600 Brazil 5511 3048 4500 Europe 44 20 7330 7500 Germany 49 69 9204 1210 Hong Kong 852 2977 0000
 Japan 81 3 3201 8900 Singapore 65 6212 1000 U.S. 1 212 318 2000 Copyright 2012 Bloomberg Finance L.P.
 SH 818835 6627-3265-0 06-Nov-12 12:10:03 EST GMT-5:00

sasc 2007-rf1

William Smith

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[primary_doc.xml](#)www.sec.gov/Archives/edgar/data/912577/.../primary_doc.xml...

... Mortgage-Backed Security 116389.38 3826.13 144A SASC 2007-BHC1 A1

Mortgage-Backed Security 160180.00 1713.87 144A **SASC 2007-RF1** 1AIO ...

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[\[PDF\] Mortgage Update - 1Q 07](#)jenner.com/lehman/docs/.../LBEX-DOCID%20540069.pdf

File Format: PDF/Adobe Acrobat - Quick View

BNCMT 2007-1. Subprime. Sub Prime. -. 908. FFML 2006- ... **SASC 2007-BC1**.Subprime. Sub Prime. -. 1,177 ... **SASC 06-RF1**. Prime FHA / VA. Prime. 73. 58 ...[\[PDF\] Mortgage Update - 2Q 07](#)jenner.com/lehman/docs/.../LBEX-DOCID%20505835.pdf

File Format: PDF/Adobe Acrobat

SASC 06-RF1. Prime FHA / VA. Prime. 58. -. SACC 2007-BC3. Subprime. Sub Prime.-. 773. Breakout of Derivative Gross-up: Sub Prime. **SASC 2007-GEL2** ...

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ACE 2007-WM1. ACE 2007-WM2. BALTA 2006-4. BALTA 2006-8. BSABS 2004-HE7 ...

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File Format: PDF/Adobe Acrobat - Quick View

For adjustment on remittance report of previous quarter, use a separate **RF-1** form and check the box corresponding to "Addition to Previous **RF-1**" or "Deduction ...More results for **rf 1 2007**1 2 3 4 5 6 7 8 9 10 [Next](#)[Advanced search](#) [Search Help](#) [Give us feedback](#)[Google Home](#) [Advertising Programs](#) [Business Solutions](#) [Privacy & Terms](#)
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144A SASC 2007-RF1 1AIO

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primary_doc.xml

www.sec.gov/Archives/edgar/data/912577/.../primary_doc.xml...
... 2034-05-25 3.1433 Other Instrument CMOs 4078.24 1602.59 SASC 2005-5
Mortgage-Backed Security 160180.00 1713.87 **144A SASC 2007-RF1 1AIO** ...
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N-MFP LIVE N 2012-08-31 0000856517 S000009574 4 N N N N 33 ...

www.sec.gov/Archives/edgar/data/856517/.../primary_doc.xml...
... 2036-08-25 7.4845 Other Instrument CMOs 6211334.16 1457486.46 SASC
Security 16018000.00 172587.80 **144A SASC 2007-RF1 1AIO** 2037-03-25 ...
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<SEC-DOCUMENT>0001181431-12-043944.txt : 20121001 <SEC ...

www.sec.gov/Archives/edgar/.../0001181431-12-043944.txt
Oct 18, 2012 - ... <part2:RepurchaseAgreement><part2:InvestmentIssuer>**144A SASC**
2007-BHC1 **SASC 2007-RF1 1AIO**</part2:InvestmentIssuer><part2: ...
You visited this page on 11/12/12.

→ SEC FORM N-MFP

www.sec.gov/Archives/edgar/data/...MFP.../primary_doc.xml
For repurchase agreements, describe the securities subject to the repurchase
agreement, including: a. The name of the issuer: **144A SASC 2007-BHC1 A1. b.**
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yahoo.brand.edgar-online.com/EFX.../EDGARpro.dll?...
... 2007</part2:InvestmentIssuer><part2:InvestmentMaturityDate><invest:date>2037-07-
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1AIO</part2:InvestmentIssuer><part2:InvestmentMaturityDate>< ...

Form: N-MFP. Received: 10/01/2012 07:11:29 - EDGAR Online

google.brand.edgar-online.com/EFX.../EDGARpro.dll?...
Oct 1, 2012 - **144A SASC 2007-RF1 1AIO**. 2037-03-25. 4.81653. Other Instrument -
CMO. \$341,903.81. \$59,740.45. BEAR STEARNS SERIES 2007 ...

Form: N-MFP. Received: 08/07/2012

google.brand.edgar-online.com/EFX.../EDGARpro.dll?...
Aug 7, 2012 - **144A SASC 2007-RF1 1AIO**. 2037-03-25. 4.81653. Other Instrument -
CMO. \$427,379.76. \$74,675.57. BEAR STEARNS SERIES 2007 ...

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**UNITED STATES SECURITIES AND EXCHANGE
COMMISSION**
Washington, D.C. 20549
N-MFP

OMB APPROVAL

OMB Number: 3235-0657
Expires: May 31, 2013
Estimated average burden
hours per response: 10.9

**MONTHLY SCHEDULE OF PORTFOLIO HOLDINGS
OF MONEY MARKET FUNDS**

1. Identity Information

Report for 2012-07-31	CIK Number of Registrant <u>0000912577</u> ←	EDGAR Series Identifier <u>S000009743</u>
Total number of share classes in the series 1		
Do you anticipate that this will be the fund's final filing on Form N-MFP? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No		
Is the fund liquidating? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No		
Is the fund merging with, or being acquired by, another fund? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No		
Successor fund CIK	Successor fund Securities Act File Number	Successor fund EDGAR Series Identifier
If this is not a final filing: has the fund acquired or merged with another fund since the last filing? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No		
Acquired or merged fund CIK	Acquired or merged fund Securities Act File Number	Acquired or merged fund EDGAR Series Identifier

Part I - Information about the Fund**A. Series-Level Information**

Item 1. Securities Act File Number <u>33-69268</u>	Item 2. Investment Adviser Adviser FEDERATED INVESTMENT MGMT CO SEC File Number <u>801-34612</u>	Item 3. Sub-Adviser. If a fund has one or more sub-advisers, disclose the name of each sub-adviser Sub Advisor SEC File Number
Item 4. Independent Public Accountant Name City State KPMG BOSTON MA	Item 5. Administrator. If a fund has one or more administrators, disclose the name of each administrator Name FEDERATED ADMINISTRATIVE	Item 6. Transfer Agent Name CIK Number SEC File Number STATE

		STREET BANK AND TRUST CO
		0000839287 085- 05003
<p>Item 7. Master-Feeder Funds. Is this a feeder fund?</p> <p><input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>a. Identify the master fund by CIK</p> <p>b. Securities Act file number of the master fund</p> <p>c. EDGAR series identifier of the master fund</p>	<p>Item 8. Master-Feeder Funds. Is this a master fund?</p> <p><input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>a. If this is a master fund, identify all feeder funds by CIK or, if the fund does not have a CIK, by name</p> <p>b. Securities Act file number of each feeder fund</p> <p>c. EDGAR series identifier of each feeder fund</p>	<p>Item 9. Is this series primarily used to fund insurance company separate accounts?</p> <p><input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p>
<p>Item 10. Category. Indicate the category that most closely identifies the money market fund</p> <p>Prime</p>	<p>Item 11. Dollar weighted average portfolio maturity</p> <p>51 days</p>	<p>Item 12. Dollar weighted average life maturity. Calculate the dollar weighted average portfolio maturity without reference to the exceptions in rule 2a-7(d) regarding interest rate readjustments</p> <p>70 days</p>
<p>Item 13. Total value of portfolio securities at amortized cost, to the nearest cent</p> <p>\$177,772,518.21</p>	<p>Item 14. Total value of other assets, to the nearest cent</p> <p>\$95,816.21</p>	<p>Item 15. Total value of liabilities, to the nearest cent</p> <p>\$28,959.55</p>
<p>Item 16. Net assets of the series, to the nearest cent</p> <p>\$177,839,374.87</p>	<p>Item 17. 7-day gross yield</p> <p>0.42%</p>	
<p>Item 18. Shadow Price of the Series</p> <p>a. The net asset value per share most recently calculated using available market quotations (or an appropriate substitute that reflects current market conditions), including the value of any capital support agreement, to the nearest hundredth of a cent.</p> <p>\$1.0001</p> <p>b. Date as of which the market-based net asset value disclosed in item 18a was calculated.</p> <p>2012-07-31</p> <p>c. The net asset value per share most recently calculated using available market quotations (or an appropriate substitute that reflects current market conditions), excluding the value of any capital support agreement, to the nearest hundredth of a cent.</p> <p>\$1.0001</p> <p>d. Date as of which the market-based net asset value disclosed in item 18c was calculated.</p> <p>2012-07-31</p>		

B. Class-Level Information.

For each Class of the Series, disclose the following:

<p>Item 19. EDGAR Class Identifier</p> <p>C000026768</p>	<p>Item 20. Minimum Initial Investment</p> <p>\$1.00</p>	<p>Item 21. Net assets of the Class, to the nearest cent</p>
--	--	--

\$177,839,374.87

Item 22. Net asset value per share for purposes of distributions, redemptions, and repurchase, to the nearest cent

\$1.00

Item 23. Net shareholder flow activity for the month ended (subscriptions less redemptions), to the nearest cent

-\$1,192,580.07

a. Gross subscriptions for the month ended (including dividend reinvestments), to the nearest cent

\$8,628,444.88

b. Gross redemptions for the month ended, to the nearest cent

\$9,821,024.95

Item 24. 7-day net yield, as calculated under Item 26(a)(1) of Form N-1A

0%

Item 25. Shadow Price of Each Class

a. The net asset value per share most recently calculated using available market quotations (or an appropriate substitute that reflects current market conditions), including the value of any capital support agreement, to the nearest hundredth of a cent.

\$1.0001

b. Date as of which the market-based net asset value disclosed in item 25a was calculated.

2012-07-31

c. The net asset value per share most recently calculated using available market quotations (or an appropriate substitute that reflects current market conditions), excluding the value of any capital support agreement, to the nearest hundredth of a cent.

\$1.0001

d. Date as of which the market-based net asset value disclosed in item 25c was calculated.

2012-07-31

Part II - Schedule of Portfolio Securities

For each security held by the money market fund, disclose the following:

Item 26. Name of the Issuer VW Credit, Inc.	Item 27. The title of the issue (including coupon or yield) VW Credit, Inc., 0.400%, 8/23/2012	Item 28. The CUSIP. If the security has a CUSIP, filers must provide the security's CUSIP pursuant to this Item and may skip Items 29 and 30 91842LHP2
Item 29. Other unique identifier, if the security has a unique identifier. If a CUSIP is provided pursuant to Item 28, skip this Item	Item 30. CIK of the issuer, if the issuer has a CIK. If a CUSIP is provided pursuant to Item 28, skip this Item	Item 31. The category of investment. Indicate the category that most closely identifies the instrument Financial Company Commercial Paper If Other Instrument, include a brief description

Item 32. If the security is a repurchase agreement: is the fund treating the acquisition of the repurchase agreement as the acquisition of the underlying securities (i.e., collateral) for purposes of portfolio diversification under rule 2a-7?

☐ Yes ☒ No

For repurchase agreements, describe the securities subject to the repurchase agreement, including:

a. The name of the issuer:

b. Maturity date:

Item 26. Name of the Issuer <u>J.P. Morgan Securities LLC</u>	Item 27. The title of the issue (including coupon or yield) J.P. Morgan Securities LLC, 0.500%, 8/1/2012	Item 28. The CUSIP. If the security has a CUSIP, filers must provide the security's CUSIP pursuant to this Item and may skip Items 29 and 30 616994000
Item 29. Other unique identifier, if the security has a unique identifier. If a CUSIP is provided pursuant to Item 28, skip this Item	Item 30. CIK of the issuer, if the issuer has a CIK. If a CUSIP is provided pursuant to Item 28, skip this Item	Item 31. The category of investment. Indicate the category that most closely identifies the instrument Other Repurchase Agreement ← If Other Instrument, include a brief description

Item 32. If the security is a repurchase agreement: is the fund treating the acquisition of the repurchase agreement as the acquisition of the underlying securities (i.e., collateral) for purposes of portfolio diversification under rule 2a-7?

☐ Yes ☒ No

→ For repurchase agreements, describe the securities subject to the repurchase agreement, including:

a. The name of the issuer: AHM

b. Maturity date: 2047-03-25

from:

to:

c. Coupon or yield: 2.0784

d. The category of investments: Other Instrument

If Other Instrument, include a brief description: CMO

e. The principal amount, to the nearest cent: \$1,897,827.52

f. Value of collateral, to the nearest cent: \$217,636.30

If multiple securities of an issuer are subject to the repurchase agreement, the securities may be aggregated, in which case disclose:

(a) the total principal amount and value and (b) the range of maturity dates and interest rates.

For repurchase agreements, describe the securities subject to the repurchase agreement, including:

a. The name of the issuer: CWALT

b. Maturity date: 2046-08-25

from:

to:

c. Coupon or yield: 0.4362

d. The category of investments: Other Instrument

If Other Instrument, include a brief description: Asset Backed Securities

e. The principal amount, to the nearest cent: \$563,106.17

f. Value of collateral, to the nearest cent: \$317,861.39

If multiple securities of an issuer are subject to the repurchase agreement, the securities may be aggregated, in which case disclose:

(a) the total principal amount and value and (b) the range of maturity dates and interest rates.

a. The name of the issuer: 144A JPMRR 2009-7 12A1

b. Maturity date: 2037-01-27

from:

to:

c. Coupon or yield: 6.25

d. The category of investments: Other Instrument

If Other Instrument, include a brief description: CMO

e. The principal amount, to the nearest cent: \$23,802.60

f. Value of collateral, to the nearest cent: \$24,420.49

If multiple securities of an issuer are subject to the repurchase agreement, the securities may be aggregated, in which case disclose:

(a) the total principal amount and value and (b) the range of maturity dates and interest rates.

For repurchase agreements, describe the securities subject to the repurchase agreement, including:

a. The name of the issuer: 144A SASC 2003-14 B412

b. Maturity date: 2033-05-25

from:

to:

c. Coupon or yield: 5.7313

d. The category of investments: Other Instrument

If Other Instrument, include a brief description: CMOs

e. The principal amount, to the nearest cent: \$5,795.17

f. Value of collateral, to the nearest cent: \$269.27

If multiple securities of an issuer are subject to the repurchase agreement, the securities may be aggregated, in which case disclose:

(a) the total principal amount and value and (b) the range of maturity dates and interest rates.

For repurchase agreements, describe the securities subject to the repurchase agreement, including:

a. The name of the issuer: 144A JPMCC 2007-LDPX HS

b. Maturity date: 2049-01-15

from:

to:

c. Coupon or yield: 5.7592

d. The category of investments: Other Instrument

If Other Instrument, include a brief description: Commercial Mortgage-Backed Security

e. The principal amount, to the nearest cent: \$160,180.00

f. Value of collateral, to the nearest cent: \$1,713.87

If multiple securities of an issuer are subject to the repurchase agreement, the securities may be aggregated, in which case disclose:

(a) the total principal amount and value and (b) the range of maturity dates and interest rates.

For repurchase agreements, describe the securities subject to the repurchase agreement,

including:

a. The name of the issuer: 144A SASC 2007-RF1 1AIO ←

b. Maturity date: 2037-03-25

from:

to:

c. Coupon or yield: 4.8165

d. The category of investments: Other Instrument

If Other Instrument, include a brief description: CMO

e. The principal amount, to the nearest cent: \$51,285.57

f. Value of collateral, to the nearest cent: \$8,961.07

If multiple securities of an issuer are subject to the repurchase agreement, the securities may be aggregated, in which case disclose:

(a) the total principal amount and value and (b) the range of maturity dates and interest rates.

For repurchase agreements, describe the securities subject to the repurchase agreement, including:

a. The name of the issuer: BEAR STEARNS SERIES 2007

b. Maturity date: 2022-03-15

from:

to:

c. Coupon or yield: 1.1487

d. The category of investments: Other Instrument

If Other Instrument, include a brief description: CMO

e. The principal amount, to the nearest cent: \$124,079.65

f. Value of collateral, to the nearest cent: \$111,720.90

If multiple securities of an issuer are subject to the repurchase agreement, the securities may be aggregated, in which case disclose:

(a) the total principal amount and value and (b) the range of maturity dates and interest rates.

For repurchase agreements, describe the securities subject to the repurchase agreement, including:

a. The name of the issuer: JPMORGAN MORTGAGE TRUST 2

b. Maturity date: 2037-12-26

from:

to:

c. Coupon or yield: 0.507

d. The category of investments: Other Instrument

If Other Instrument, include a brief description: CMO

e. The principal amount, to the nearest cent: \$460,272.69

f. Value of collateral, to the nearest cent: \$991.76

If multiple securities of an issuer are subject to the repurchase agreement, the securities may be aggregated, in which case disclose:

(a) the total principal amount and value and (b) the range of maturity dates and interest rates.



EDGAR Search Results

Search the Next-
Generation EDGAR SystemSEC Home » Search the Next-Generation EDGAR System » Company Search » *Current Page***FEDERATED INSURANCE SERIES CIK#: 0000912577**
(see all company filings)State location: PA | State of Inc.: MA | Fiscal Year End: 1231
formerly: INSURANCE MANAGEMENT SERIES (filings through 1996-02-29)

(List all Funds and Classes/Contracts for FEDERATED INSURANCE SERIES)

Business Address
4000 ERICSSON
DRIVE
WARRENDALE PA
15086-7561
8003417400Mailing Address
4000 ERICSSON
DRIVE
WARRENDALE PA
15086-7561

Filter Results:	Filing Type:	Prior to: (YYYYMMDD)	Limit Results Per Page	<input type="button" value="Search"/>
	<input type="text"/>	<input type="text"/>	40 Entries <input type="button" value="v"/>	<input type="button" value="Show All"/>
				<input type="button" value="Prospectuses"/>
				<input type="button" value="Proxy Voting Records"/>

Items 1 - 40 RSS Feed

Filings	Format	Description	Filing Date	File/Film Number
40-17G/A	Documents	[Amend]Fidelity Bond [Rule 17G-1(g)] Acc-no: 0001318148-12-001688 (40 Act) Size: 212 KB	2012-10-16	811-08042 121145841
N-MFP	Documents	Monthly Schedule Of Portfolio Holdings Of Money Market Funds Acc-no: 0001181431-12-049319 (33 Act) Size: 377 KB	2012-09-07	811-08042 121081009
NSAR-A	Documents	Semi-annual report for management companies Acc-no: 0000912577-12-000004 (40 Act) Size: 58 KB	2012-08-28	811-08042 121059399
N-CSRS	Documents	Certified Shareholder Report, Semi-Annual Acc-no: 0001318148-12-001399 (40 Act) Size: 2 MB	2012-08-23	811-08042 121051892
N-PX	Documents	Annual Report of proxy voting record of management investment companies Acc-no: 0001144204-12-047752 (40 Act) Size: 2 MB	2012-08-23	811-08042 121051747
N-MFP	Documents	Monthly Schedule Of Portfolio Holdings Of Money Market Funds Acc-no: <u>0001181431-12-043944</u> (33 Act) Size: 436 KB	2012-08-07	811-08042 121012139
N-MFP	Documents	Monthly Schedule Of Portfolio Holdings Of Money Market Funds Acc-no: 0001181431-12-040136 (33 Act) Size: 09	2012-07-09	811-08042 12952721



U.S. Securities and Exchange Commission

Filing Detail

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Form N-MFP - Monthly Schedule Of Portfolio Holdings Of Money Market Funds SEC Accession No. 0001181431-12-043944

Filing Date	Period of Report
2012-08-07	2012-07-31
Accepted	Filing Date Changed
2012-08-07 12:12:58	2012-08-07
Documents	
1	

Document Format Files

Seq	Description	Document	Type	Size
1	N-MFP	primary_doc.html	N-MFP	
1	N-MFP	primary_doc.xml	N-MFP	435122
	Complete submission text file	0001181431-12-043944.txt		436639

Series and Classes/Contracts Information:

Existing

Status

Name

Ticker
Symbol

CIK 0000912577

Series S000009743

Federated Prime Money Fund II

Class/Contract
C000026768

Federated Prime Money Fund II

**FEDERATED INSURANCE SERIES (Filer) CIK:
0000912577 (see all company filings)**

IRS No.: 256425525 | State of Incorp.: MA | Fiscal Year End: 1231
Type: N-MFP | Act: 33 | File No.: 811-08042 | Film No.: 121012139

Business Address
4000 ERICSSON
DRIVE
WARRENDALE PA
15086-7561
8003417400

Mailing Address
4000 ERICSSON
DRIVE
WARRENDALE PA
15086-7561

Exhibit “D”

THE UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

IN RE: : Case No. 09-69716-WLH
:
SAMMY L. RICHARDS, :
:
Debtor. : Chapter 13
:
: April 18, 2012
:

[illegible]

TRANSCRIPT OF PROCEEDINGS
BEFORE THE HONORABLE **WENDY L. HAGENAU**
UNITED STATES BANKRUPTCY JUDGE

APPEARANCES:

FOR THE DEBTOR

Satyam A. Mehta, Esq.

Mehta & Mehta, LLC

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CHAPTER 13 TRUSTEE

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P R O C E E D I N G S

THE CLERK: Line item number 14, Samuel -- Sammy Richards, hearing on status of Debtor's case.

MR. MEHTA: Good morning, Your Honor. Your Honor, my client, Sammy Richards, he comes today to request that this Court vacate a relief from the automatic stay that was granted to Defendant Wells Fargo back in October of 2010. We believe that Sammy has the right -- my client has a right to request this relief under Bankruptcy Rule 9024, specifically invoking Rule 60(b) under 60(b)(3), (b)(5) and (b)(6). Now, we understand that there may be some time limitation as it relates to the one-year rule on (b)(1) through (b)(3), but nevertheless, we feel that the Court may vacate this order as a result of (b)(5) and (b)(6) if it's made within a reasonable time.

Your Honor, we believe -- excuse me -- that this Court has the authority to vacate an order under (b)(5) if it prospectively is no longer equitable, meaning applying it is no longer equitable. While the standard in granting this relief is not extremely clear, the Supreme Court has stated that a party can request the Court to vacate an order if there's a significant change in the factual circumstances or the law, and in this case, Your Honor, my client -- there is a significant factual change of circumstances because the order was procured by the deceitful practices from the

1 Defendant. Specifically, the Defendant had a duty to
2 disclose that they had received payments for a mortgage for a
3 month that they were claiming they did not. Additionally, it
4 was not found until a few months later that the Defendant
5 didn't actually hold a valid security interest in the
6 property. So all of this was used by the Defendant to
7 request relief from the automatic stay.

8 Now, although in the situation, my client's
9 attorney did not attend the hearing, my client did provide
10 the attorney with proof of payment and Defendant had
11 acknowledged, on its own statement that it received those
12 payments and also that the attorney did not attend -- did not
13 forward that payment to the Trustee or to the Defendant, even
14 though my client already had. So by not attending the
15 hearing, the Court obviously had to grant the order that was
16 proposed by the Defendant, even though the premises upon
17 which they asked for the relief was deceitful and shouldn't
18 have been allowed because they had lost subject matter
19 jurisdiction to bring that even forward.

20 By granting them this relief, they effectively
21 allowed Defendant to proceed with foreclosure proceedings on
22 my client, basically strong-arming him into trying to accept
23 a loan modification or loan assistance that was clearly not
24 in the best interest of my Debtor. Even though he was
25 qualified to receive a much lesser interest rate and less

1 payment, they actually made him pay more up front and just
2 take off about \$15 a month going forward. But basically,
3 what's going on here is that Defendant, by having this order,
4 is strong-arming my client into accepting unreasonable terms,
5 and in addition, they're just basically trying to foreclose
6 on him. And they filed a foreclosure action in the Clayton
7 State Court, which my client has also asked that this --
8 asked that that Court relieve -- stay the proceedings until we
9 have a determination on this issue.

10 Now, I understand that his motion that he sent in
11 the beginning of February asked for a lot of other relief
12 like injunctive relief and declaratory relief and sanctions,
13 and I understand that does require adversary proceeding, but
14 at minimum what Sammy, as pro se, has requested is to relieve
15 -- vacate the relief from the order that was granted to
16 Defendant because of all these deceitful practices engaged by
17 the Defendant. And under (b)(6), Your Honor, relief may also
18 be granted because as Georgia understands it, this should be
19 only used to grant relief where exceptional or extraordinary
20 circumstances exist.

21 In addition, my client must display that there's a
22 more compelling showing of inequity and hardship. And I
23 understand that the Court has to balance the interest
24 regarding the finality of a judgment versus the importance of
25 the Movant's hardship and circumstances. However, in this

1 case, because of this order, my client has had to, at times,
2 give up his job to fight pro se on certain issues, including
3 this -- these foreclosure proceedings. He has had to
4 basically come in representing himself in court on another
5 issue regarding a Lemon Law claim that he had come to this
6 court to represent upon. He was going through a divorce at
7 the time because most -- part of it, I would say, is because
8 his wife didn't believe that there was going to be a home for
9 him to live in as a result of these impending foreclosure
10 proceedings, and he had to deal with, in addition to that,
11 predatory real-estate speculators who were willing to buy the
12 property, but they found out that it was just a fraud
13 transaction. And on top of that, he had to file his own
14 answers and motions.

15 Basically, what I'm saying, Your Honor, is that
16 while ineffective assistance of counsel, in itself, should
17 not reverse an order that was granted under (b)(6), the fact
18 that we have ineffective assistance of counsel, in terms of
19 not providing the documentation to the Defendants, in
20 addition to Defendant's deceitful practices, in addition to
21 him having to do all this pro se is -- altogether, this
22 constitutes exceptional and extraordinary circumstances, and
23 in which case, my client had to suffer an extreme hardship.
24 As such, we are requesting that this Court vacate its
25 original order and grant -- granting relief to the Defendant

1 and that my client recover fees and costs associated with
2 this motion.

3 THE COURT: One question. I -- as I recall, Mr.
4 Richards's case is completed. All the creditors have been
5 paid in full.

6 MR. MEHTA: Uh-huh.

7 THE COURT: So if I granted your motion so that the
8 stay is reimposed, what happens then?

9 MR. MEHTA: Well, I was also --

10 THE COURT: The bankruptcy case is over. It's
11 going to get closed.

12 MR. MEHTA: I agree. I believe what -- Your Honor,
13 what we are trying to do is make sure that this case stays
14 open so that we may also file an adversary complaint against
15 Defendant for all the inequities that have occurred, and we
16 actually have that adversary complaint ready to be filed at
17 any point. I just felt that we need to probably determine
18 the issue on whether this Court can vacate the relief from
19 automatic stay first before we go ahead and file the
20 adversary proceeding.

21 THE COURT: Okay. All right. Thank you.

22 Ms. Thompson.

23 MS. THOMPSON: Good morning, Your Honor. Wells
24 Fargo does oppose the motion. We object to reopening the
25 order for many reasons.

1 First, there hasn't been any deceit by Wells Fargo.
2 There has also been no change in circumstances. All the
3 information being cited in the motion was certainly available
4 to Mr. Richards on the date that the Court made its order
5 back in 2010. Although Debtor did send funds to Wells Fargo
6 in August and September of 2010, Debtor was so far behind in
7 his payments that according to the loan terms, the funds sent
8 in August and September were applied to the balances due for
9 May 1st and June 1st of 2010. So, in fact, Mr. Richards was
10 in default at that time.

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11 In addition, there are some allegations of a forged
12 security deed, but that deed was recorded and does serve -- I
13 guess, to be clear, Mr. Richards is not alleging that he did
14 not sign the security deed. He is simply alleging that the
15 witness that -- that he received a copy that was unsigned by
16 a witness. However, the recorded deed was signed by the
17 attesting witness, and under OCGA Section 44-2-2, the
18 security deed is still valid as between the parties, and
19 because any defect that may exist, although Wells Fargo does
20 not admit there is such a defect, it still serves as notice
21 to bonafide purchasers and to the public.

22 In addition, Debtor has not shown that his
23 allegations of fraud, that any such conduct by Wells Fargo,
24 if it had occurred, prevented him from fully and fairly
25 presenting his defense to the motion in 2010, as required by

1 several cases.

2 In addition, he has alleged fraud upon the Court,
3 and none of the conduct alleged arises to the kind of
4 egregious misconduct, such as bribery of a judge, required
5 for fraud upon the Court. He has also alleged an unclean
6 hands defense, which should have been presented in defense of
7 the motion and is not available to serve as a statutory
8 grounds for reopening an order under Rule 60(b).

9 In addition, there are two -- perhaps three
10 procedural defects with this motion. The first is that it
11 has been filed after the one-year deadline provided by Rule
12 60(c), and I have cases available to present to Your Honor,
13 if you wish to see them, regarding that after this time, that
14 is the absolute end date.

15 In addition, he has brought some sanctions,
16 complaints and that portion of the order is completely
17 deficient procedurally, in terms of that it has not complied
18 with Rule 11(c)(2) in the sense it was not filed separately.
19 It needs to be an adversary complaint, and it was not served
20 on us before it was filed with the Court.

21 So for all of those reasons, Wells Fargo submits to
22 the Court that the order should not be reopened. And I guess
23 that's it.

24 THE COURT: Okay. Thank you.

25 Yes. Mr. Mehta?

1 MR. MEHTA: Your Honor, Defendant claims that my
2 client was not actually current on his payments. Now, when
3 my client filed for bankruptcy in 2009, at that point, there
4 was an arrearage that got, I guess, put into the plan. That
5 being said, the information that the Defendants had requested
6 regarding the payments for those months had been provided to
7 the Defendant prior to the hearing. They had knowledge of
8 this information. They had knowledge that -- they had
9 documentation of this, and it's even in their statement that
10 they provided Mr. Richard, himself, regarding the payments
11 and on the date they were made.

12 Second of all, the valid -- invalid security
13 interest, there is state law against what Defendant is
14 claiming regarding the invalid -- invalidity of the security
15 deed. It was mentioned in Mr. Richards's motion at that
16 time, Gordon v. Wells Fargo, I believe, where we have a
17 similar situation of unforged security deed or altered
18 security deed.

19 Those two facts alone, in itself, basically do not
20 -- I mean, we don't feel they permit this Court to be able to
21 -- don't feel that Defendant had subject matter jurisdiction
22 to even request relief from the automatic stay.

23 THE COURT: But where I continue to get hung up is
24 even if you're correct --

25 MR. MEHTA: Uh-huh.

1 THE COURT: -- the plan is completed.

2 MR. MEHTA: Okay.

3 THE COURT: And the plan can't be modified now
4 because all the payments under the plan have been completed.

5 MR. MEHTA: Okay.

6 THE COURT: So what would be the point of setting
7 aside the relief from stay order because there's no mechanism
8 in the bankruptcy case, short of filing a new case --

9 MR. MEHTA: Uh-huh.

10 THE COURT: -- that would allow him to still repay
11 the debt because from everything I'm hearing, there's no
12 question but that he borrowed the money --

13 MR. MEHTA: Uh-huh.

14 THE COURT: -- and he bought the house. So he
15 still owes the money. I understand the question about
16 sanctions and fees, and that can still be done even -- that
17 can be done even if you don't reverse the order. If you
18 believe that the -- if you want to sue the -- whoever, Wells
19 Fargo or whoever you think made the misrepresentations to the
20 Court for sanctions, you can file a Rule 11. You can still
21 file an --

22 MR. MEHTA: Uh-huh.

23 THE COURT: -- adversary proceeding, but I'm just
24 trying to figure out what the point of setting aside the
25 order granting relief from the stay is, as opposed to having

1 you continue to litigate your issues about the validity of
2 the security deed before the state court, which is apparently
3 where it is right now.

4 MR. MEHTA: Well, to my understanding, Your Honor,
5 by granting the order for relief from the automatic stay to
6 the Defendant, it basically gave Defendant the ability to
7 strong-arm my client into foreclosing.

8 THE COURT: But what can I do now? That's my
9 question.

10 MR. MEHTA: Well -- okay. I apologize.

11 THE COURT: Okay. Because this plan is over.

12 MR. MEHTA: Uh-huh.

13 THE COURT: He's paid all the creditors, so we
14 can't modify the plan to put in any sort of provisions to pay
15 Wells Fargo now.

16 MR. MEHTA: Okay.

17 THE COURT: So if I reimpose the stay, then they're
18 going to file a motion for relief from stay, and frankly,
19 even if they were an unsecured creditor, I would lift the
20 stay because there's nothing that I can do for them in
21 bankruptcy because he can't pay them through the plan
22 anymore.

23 MR. MEHTA: I understand, Your Honor.

24 THE COURT: So that's what I'm trying to
25 understand.

1 Ms. Whaley, do you have anything to add?

2 MS. WHALEY: No, Your Honor. I mean, the plan is
3 complete. I filed my final report. The proof of claim for
4 Wells Fargo was paid in full during the pendency of the case,
5 and I don't -- I mean, the lifting of the stay only allowed
6 the creditor to act on their state court rights, and so there
7 was nothing in the bankruptcy court that would prejudice the
8 Debtor from taking up any defense on a wrongful foreclosure
9 or a contract dispute in the state court.

10 THE COURT: Right. All right. So I -- here's what
11 I'm going to do. I'm going to deny the request to set aside
12 the order granting relief from the stay, but I will hold the
13 case open. I will ask the Clerk's Office not to close the
14 case. And if you -- your client wants to file an adversary
15 proceeding for sanctions, believing that they lied to the
16 Court in their misrepresentations, I believe that is
17 something that this Court can still handle, but it would need
18 to be done through an adversary proceeding and filing all the
19 correct procedures under Rule 11. And then, that way,
20 there's time to actually have discovery, have a real
21 evidentiary hearing to see whether, in fact, there were
22 misrepresentations, but I don't see that -- even if
23 everything you say is correct, I don't see that setting aside
24 the order on the relief from stay accomplishes anything for
25 you given where we are in this case, where we are with this

1 plan, and the fact that you have a state court remedy ongoing
2 right now to litigate with them about whether, in fact,
3 you're in default, whether, in fact, the security deed is
4 valid. All those things, you should go forward with at the
5 state court.

6 So I'll enter an order that denies the motion to
7 set aside the relief from stay, but I will put a deadline in
8 there for the -- I'll ask the Clerk's Office to keep the case
9 open for a certain period of time. If you file an adversary
10 proceeding within that time, we'll go forward with it. If
11 you don't, the case will be closed.

12 MR. MEHTA: Thank you, Your Honor.

13 THE COURT: Okay.

14 MR. RICHARDS: Thank you.

15 THE COURT: All right. Thank you.

16 (Proceedings concluded at 11:59 a.m.)

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CERTIFICATION

I, court-approved transcriber, certify that the foregoing is a correct transcript from the electronic sound recording of the proceedings in the above-entitled matter.

/s/ Alicia Jarrett

9 November 2012

Alicia Jarrett, Transcriber

Date